



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2010-67
Site: 46 Whitman Street
Date of Decision: January 5, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: January 7, 2011

ZBA DECISION

Applicant Name:	Matthew Fox
Applicant Address:	46 Whitman Street, Somerville, MA 02144
Property Owner Name:	Matthew Fox
Property Owner Address:	46 Whitman Street, Somerville, MA 02144
Agent Name:	N/A

<u>Legal Notice:</u>	Applicant and owner Matthew Fox, seeks a Special Permit under SZO §4.4.1 for relief under the provisions of SZO §8.5 to legalize and upgrade a finished basement.
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<u>Zoning District/Ward:</u>	RA zone/Ward 7
<u>Zoning Approval Sought:</u>	§4.4.1 & §8.5
<u>Date of Application:</u>	October 26, 2010
<u>Date(s) of Public Hearing:</u>	12/1, 12/15/10 & 1/5/11
<u>Date of Decision:</u>	January 5, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2010-67 was opened before the Zoning Board of Appeals at Somerville City Hall on December 1, 2010. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After three hearings of deliberation, the Zoning Board of Appeals took a vote.



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DESCRIPTION:

The applicant would like to improve the basement level without making changes to the existing structure of the building. The applicant seeks to fix the improper floor installations, add proper insulation, and complete an interior renovation to this area. The applicant, when seeking building permits, was informed that the original renovation has no permit on record and would have required a special permit in order to go forward. Therefore, this applicant is now seeking a special permit to legalize the existing basement improvements so that building permits can be granted to upgrade the space.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a special permit under §4.4 of the SZO, Board does not find that the alterations proposed would be substantially more detrimental to the neighborhood than the existing structure.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

Renovations to the existing basement will not require any changes to the existing structure. As stated above the residence is an existing nonconforming structure. Further, any changes made to the interior of the basement level will not modify the existing structure.

The existing structure is a pre-existing non-conforming structure that is consistent with the purpose of the RA district. The district is designed to establish and preserve quiet neighborhoods of one- and two-family homes; free from other uses except those which are both compatible with and convenient to the residents of such districts. While the structure does not meet the dimensional requirements of the district, it is typical in size and setbacks to typical homes in the RA district.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

No impacts are anticipated.

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.

No impacts are anticipated.



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DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Scott Darling. Upon making the above findings, Susan Fontano made a motion to approve the request for a special permit. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the legalization and renovation of a finished basement. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>October 26, 2010</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>October 26, 2010</td><td>Plans submitted to OSPCD</td></tr></table>				Date (Stamp Date)	Submission	October 26, 2010	Initial application submitted to the City Clerk's Office	October 26, 2010	Plans submitted to OSPCD
	Date (Stamp Date)				Submission					
	October 26, 2010				Initial application submitted to the City Clerk's Office					
October 26, 2010	Plans submitted to OSPCD									
Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.										
2	The structure shall remain a 2-family house, and no additional dwelling units shall be added	Cont.	ISD							
3	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.							
4	The Applicant shall abide by all Inspectional Services Department requirements.	BP	ISD							



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Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Evans

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the
SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____



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